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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/635,832	08/09/2000	Shunpei Yamazaki	07977/182002/US3413D1	6795

7590

07/03/2002

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EXAMINER

TOLEDO, FERNANDO L

ART UNIT

PAPER NUMBER

2823

DATE MAILED: 07/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/635,832

Applicant(s)

YAMAZAKI ET AL.

Examiner

Fernando Toledo

Art Unit

2823

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 1-17 and 38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-37 and 39-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 08/931,697.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 1 – 17 and 38 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.
2. Applicant's election without traverse of claims 18 – 37 and 39 – 56 in Paper No. 7 is acknowledged.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 18 – 37 and 39 – 56 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims

1 – 37 of U.S. Patent No. 6,218,714 B1 in view of Vu et al. (U. S. patent 5,807,771). The U. S. patent 6,218,714 B1 claims the instant application.

However, U. S. patent 6,218,714 B1 does not teach wherein the channel forming region, the source and drain region and the gate electrode are formed on a thin insulating layer.

Vu, in the U. S. patent 5,807,771; figures 1 – 9 and related text disclose forming a CMOS (i.e. FET) wherein the control region 16, the source and drain region, 56 and the gate electrode 48 are formed on an thin insulating layer 14 (i.e. SOI) because it is recognized that resistance radiation effects and destruction can be improved by fabricating devices on SOI substrates (column 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the device of U. S. patent 6,218,714 B1 on a thin insulator layer (i.e. SOI substrate), since, as disclosed by Vu, it is recognized that resistance radiation effects and destruction can be improved by fabricating devices on SOI substrates.

4. Claims 18 – 37 and 39 – 56 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 35 of U.S. Patent No. 6,127,702 in view of Vu et al. (U. S. patent 5,807,771). The U. S. patent 6,127,702 claims the instant application.

However, the U. S. patent 6,127,702 does not disclose wherein the device is a CMOS devices.

Vu discloses that a CMOS on a SOI substrate have low power consumption, which are needed to exploit the VLSI fabrication techniques.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form a CMOS device in a SOI substrate in the invention of U. S. patent 6,127,702; since as taught by Vu, CMOS on a SOI substrate have low power consumption, which are needed to exploit the VLSI fabrication techniques.

Conclusion

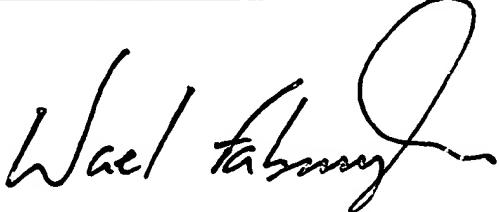
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fernando Toledo whose telephone number is (703) 305-0567. The examiner can normally be reached on Monday – Friday, 8am – 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy can be reached on (703) 308-4918. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

	Fernando Toledo Patent Examiner Art Unit 2823
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ft
June 25, 2002


SUPERVISORY PRIMARY EXAMINER
TECHNOLOGY CENTER